



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KISUMU

ELC CASE NO. 871 OF 2015

(FORMERLY HCCC CASE NO. 243 OF 2011)

SPEEDWAY TECHNICAL COMPANY LIMITED.....PLAINTIFF

VERSUS

ECOBANK KENYA LIMITED..... DEFENDANT

RULING

1. The applicant seeks orders that:

1. **Fredrick Obado Opio, Mary Adhiambo, Eric Ochieng Obado Be cited for contempt and be punished accordingly by committal to jail.**
2. **That the said Speed way Technical Company limited properties be sequestered.**
3. **ALTERNATIVELY that the said Fredrick Obado Opio, Mary Adhiambo, Eric Ochieng Obado Tom Oyugi be summoned to appear in court to show cause why they cannot be cited for contempt of court and punished accordingly by the committal to jail and by the sequestration of the said company's property**
4. **That the costs of this application be met by the said Fredrick Obado Opio, Mary Adhiambo, Eric Ochieng Obado**

The application is made on grounds:-

- i. **That the bill of costs was taxed on December 13 2017 at Kshs. 268,721.**
- ii. **That the Applicant is desirous of executing the certificate of costs issued by this Honourable court on December 13 2017.**
- iii. **That the Honourable court issued an order on January 22nd 2019 requiring the attendance of the Directors of speed way Technical Company be summoned to attend court for purposes of examining their books of accounts and other documentary evidence for purposes of executing the decree issued by the court.**
- iv. **That the said Directors never appeared court pursuant to the Order of the court issued on January 22nd 2019.**
- v. **All the Directors Fredrick Obado Opio, Mary Adhiambo, Eric Ochieng Obado principal were served with the court order of the 22nd January 2019 and have deliberately refused to comply with the same.**
- vi. **The conduct of both the Directors is scandalous and an affront to the dignity of this honourable court.**

2. According to the affidavit of Dave Lung'aho Siganga, the suit was dismissed for want of prosecution on 31/7/2011 and cannot taxed on 13/12/2017 at Kshs. 268,721. The parties were summoned to court but failed to attend.

3. I am satisfied that the respondents received the hearing notice but failed to attend court.

4. I do grant prayer 3 of Notice of motion dated 30/4/2019 to wit: Fredrick Obado Opio, Mary Adhiambo, Eric Ochieng Obado, Tom Oyugi be and are hereby summoned to appear in court to show cause why they cannot be cited for contempt of court and punished accordingly by the committal to jail and by the sequestration of the said company's property. Costs to the applicant. Notice to show cause to be issued for

hearing on 17/10/2019.

Orders accordingly.

A. O. OMBWAYO

ENVIRONMENT & LAND

JUDGE

DATED AND DELIVERED THIS 26th DAY OF September 2019.

In the presence of:

Plaintiff N/A

Defendant Mr. Lungaho Siganga

A. O. OMBWAYO

ENVIRONMENT & LAND

JUDGE